




## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: The Development Review Committee &  
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Joseph Haberman, AICP, Principal Planner   
Janis Vaseris, Biologist

Date: August 12, 2009

Subject: *Request for a Major Conditional Use Permit in order to construct a drug store at approximate mile marker 5 on the Overseas Highway, Stock Island, Real Estate No. 00124140.000000*

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**Meeting: August 18, 2009**

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I REQUEST:

The applicant is requesting approval of a major conditional use permit in order to construct a commercial retail building consisting of 14,129 ft<sup>2</sup> non-residential floor area; construct seven (7) residential dwelling units; and carry out several miscellaneous site improvements. The commercial retail building would serve as a drug store and have a drive through window.



Subject Property (outlined in blue) (2006)

1 Location:

2 Address: Overseas Highway (US 1), Stock Island, mile marker 5 (oceanside)

3 Legal Description: Square 29 and Block 26, Lots 5-16, part Lot 4, part Lot 17, Maloney  
4 subdivision (PB1-55), also known as Parcels A and B; a vacated portion of East Laurel  
5 Avenue; and a vacated portion of Fourth Street

6 Real Estate (RE) Number: 00124140.000000  
7

8 Applicant:

9 Owner: Spottswood Partners Inc.

10 Agent: Barbara Mitchell, the Craig Company

11 II RELEVANT PRIOR COUNTY ACTIONS:

12 Development Order 02-1989 was approved by the Director of Planning in 1989. The  
13 development order approved a minor conditional use permit for the redevelopment of 51  
14 mobile homes.

15 Resolution P38A-96 was approved by the Planning Commission in 1996. The resolution  
16 approved a major conditional use permit for the development of a 14,400 ft<sup>2</sup> low to medium-  
17 intensity open air market and a 433 ft<sup>2</sup> restroom facility on the subject property, as well as for  
18 additional development on a separate, non-contiguous parcel on MacDonald Avenue.

19 Resolution 070-1997 was approved by the BOCC in 1997. The BOCC adopted the  
20 resolution as evidence of its approval of the Orders of the Vested Rights Hearing Officers,  
21 promulgated pursuant to a Vested Rights Hearing held on November 21, 1996.

22 Resolution P12-00 was approved by the Planning Commission in 2000. The resolution  
23 approved an amendment to a major conditional use permit approved under Resolution P38A-  
24 96 for the development of a 14,400 ft<sup>2</sup> high-intensity open air market and a 433 ft<sup>2</sup> public  
25 restroom facility on the subject property, as well as for additional development on a separate,  
26 non-contiguous parcel on MacDonald Avenue.

27 Resolution 304A-2002 was approved by the BOCC in 2002. The resolution renounced and  
28 disclaimed any rights that the County was entitled to a portion of Fourth Street between  
29 MacDonald Avenue and US 1. Part of this abandoned portion of road is part of the subject  
30 property.

31 The open air market and public restroom facility were never developed and the major  
32 conditional use permit approved under Resolution P38A-96 and amended under Resolution  
33 P12-00 is null and void with no further action required by the County due to the approval of  
34 Resolution P04-03.

35 Resolution P04-03 was approved by the Planning Commission in 2003. The resolution  
36 approved an amendment to the major conditional use permit approved under Resolutions  
37 P38A-96 and P12-00 and permitted the construction of seven residential dwelling units and a  
38

1 14,129 ft<sup>2</sup> Eckerd Drug Store on the property. Although filed as an amendment, the approval  
2 was significantly different than that approved under Resolutions P38A-96 and P12-00.  
3

4 Resolution P15-04 was approved by the Planning Commission in 2004. The resolution  
5 approved an amendment to a major conditional use permit approved under Resolution P04-  
6 03 and permitted the construction of 10 market-rate residential dwelling units and a 14,129  
7 ft<sup>2</sup> Eckerd Drug Store on the property. The amendment also permitted several adjustments to  
8 the site plan and the removal of a drive-through from the proposed drug store.  
9

10 The 10 market-rate residential dwelling units and Eckerd Drug Store were never constructed  
11 and the major conditional use permit approved under Resolution P04-03 and amended under  
12 Resolution P15-04 is null and void with no further action required by the County due to the  
13 approval of Resolution P32-05.  
14

15 Resolution P32-05 was approved by the Planning Commission in 2005. The resolution  
16 approved an amendment to a major conditional use permit for the construction of 46  
17 residential dwelling units on the property.  
18

19 Resolution P24-08 was approved by the Planning Commission in 2008. The resolution  
20 approved a time extension and provided a new expiration date of April 27, 2009 to the major  
21 conditional use permit approved under Resolution P32-05.  
22

23 The 46 residential dwelling units were never constructed and the major conditional use  
24 permit approved under Resolution P32-05 and extended under Resolution P24-08 expired  
25 due to time limitations and is null and void with no further action required by the County.  
26

### 27 III BACKGROUND INFORMATION:

28

- 29 A. Size of Site: 103,656 ft<sup>2</sup> (2.38 acres)  
30 B. Land Use District: Mixed Use (MU)  
31 C. Future Land Use Map (FLUM) Designation: Mixed Use/Commercial (MC)  
32 D. Tier Designation: Tier 3  
33 E. Flood Zone: AE – EL 9  
34 F. Existing Use: Vacant  
35 G. Existing Vegetation / Habitat: Predominately scarified with sparse vegetation throughout  
36 composed of several native trees  
37 H. Community Character of Immediate Vicinity: Mixed Use – commercial retail, multi-  
38 family residential, mobile home, light industrial and golf course  
39 I. Miscellaneous: Historically, the property had been developed with a trailer park known  
40 as Pearl Mobile Home Park. In 1988, the court mandated the renovation of the park. In  
41 1989, Development Order 02-1989 approved a redevelopment with 51 new mobile  
42 homes. However, the proposed redevelopment did not materialize per the development  
43 order and most of the mobile homes were removed prior to 1994. Although several  
44 approvals have been granted since 1994, the property has not been redeveloped to date.  
45  
46



1 IV REVIEW OF APPLICATION:

2  
3 MCC §110-67 provides the standards which are applicable to all conditional uses. When  
4 considering applications for a conditional use permit, the Development Review Committee  
5 and Director of Planning & Environmental Resources shall consider the extent to which:

6  
7 A. *The conditional use is consistent with the purposes, goals, objectives and standards of the*  
8 *comprehensive plan and the land development regulations:*  
9

10 The proposed development is consistent with the purposes, goals, objectives and  
11 standards of the MC future land use category and the MU District.

12  
13 Policies from the Monroe County Year 2010 Comprehensive Plan that directly pertain to  
14 the proposed development include:

15  
16 Policy 101.4.5: The principal purpose of the MC land use category is to provide  
17 for the establishment of commercial zoning districts where various types of  
18 commercial retail and office may be permitted at intensities which are consistent  
19 with the community character and the natural environment. Employee housing  
20 and commercial apartments are also permitted. This land use category is also  
21 intended to allow for the establishment of mixed use development patterns, where  
22 appropriate. Various types of residential and non-residential uses may be  
23 permitted; however, heavy industrial uses and similarly incompatible uses shall be  
24 prohibited. In order to protect environmentally sensitive lands, the following  
25 development controls shall apply to all hammocks, pinelands, and disturbed  
26 wetlands within this land use category: 1) only low intensity commercial uses  
27 shall be allowed; 2) a maximum floor area ratio of 0.10 shall apply; and 3)  
28 maximum net residential density shall be zero.  
29

30 B. *The conditional use is consistent with the community character of the immediate vicinity:*  
31

32 There are several existing commercial and residential uses located on other parcels along  
33 US 1 on Stock Island. The proposed uses, a commercial retail drug store and residential  
34 dwelling units, serve the needs of the immediate planning area in which it is located.  
35 Therefore, the proposed development would be consistent with the community character  
36 of the immediate vicinity.  
37

38 C. *The design of the proposed development minimizes adverse effects, including visual*  
39 *impacts, on adjacent properties:*  
40

41 The proposed commercial retail building would be larger than many of the existing non-  
42 residential buildings along US 1; however its scale would not be out of context. Staff  
43 requests that the applicant utilize architectural features that provide visual interest and  
44 break up the mass of the structure and that similar and consistent design, materials and  
45 colors be utilized for all new structures, including signage, in order to make the  
46 redevelopment more attractive and cohesive with the Stock Island community. In

1 addition, as part of the development, it shall be required that additional trees and  
2 landscaping elements be introduced to the site. Therefore, the proposed development  
3 minimizes adverse effects, including visual impacts, on adjacent properties.  
4

5 D. *The proposed use will have an adverse impact on the value of surrounding properties:*  
6

7 There are several existing commercial and residential uses located on other parcels along  
8 US 1 on Stock Island. Therefore, it is not anticipated that the proposed development will  
9 have an adverse impact on the value of the surrounding properties.  
10

11 E. *The adequacy of public facilities and services:*  
12

13 1. Roads:  
14

15 *Localized Impacts & Access Management:* Access to and from the development shall  
16 be approved by the Public Works Division and the Florida Department of  
17 Transportation (FDOT) and in compliance with the Land Development Code (See  
18 section I-22).  
19

20 *Level of Service (LOS):* A traffic evaluation study shall be approved by the county's  
21 traffic consultant (See section I-22).  
22

23 2. Stormwater: The applicant shall coordinate with the Public Works Division, and, if  
24 necessary, the South Florida Water Management District (SFWMD) to determine  
25 compliance with all applicable regulations (See section I-9).  
26

27 3. Sewer: The applicant shall coordinate with the Florida Department of Health, Florida  
28 Department of Environmental Protection and/or Key West Resort Utilities to  
29 determine compliance with all applicable regulations (See section I-10).  
30

31 4. Emergency Management: The applicant shall coordinate with the Office of the Fire  
32 Marshal to determine compliance with the Florida Fire Prevention Code and the  
33 Florida Building Code. The office provided a letter of coordination dated March 30,  
34 2009 which provided the office's conceptual approval of the project.  
35

36 F. *The applicant has the financial and technical capacity to complete the development as*  
37 *proposed:*  
38

39 Staff has no evidence to support or disprove the applicant's financial and technical  
40 capacity.  
41

42 G. *The development will adversely affect a known archaeological, historical or cultural*  
43 *resource:*  
44

45 The proposed redevelopment will not adversely affect a known archaeological, historical  
46 or cultural resource.

1  
2 H. *Public access to public beaches and other waterfront areas is preserved as part of the*  
3 *proposed development:*  
4

5 The property is land-locked. Therefore, the proposed redevelopment will not have an  
6 adverse impact on public access to a waterfront area.  
7

8 I. *The project complies with all additional standards imposed on it by the Land*  
9 *Development Regulations:*  
10

11 1. Residential Rate of Growth Ordinance (ROGO) (§138-19 – §138-28): *In compliance.*  
12

13 The proposal involves the construction of seven (7) residential dwelling units.  
14

15 Pursuant to Development Order 02-1989 and other County documentation, the  
16 property is entitled to 51 exemptions from the ROGO permit allocation system as 51  
17 mobile homes were lawfully-established on the site. If this application is approved,  
18 the applicant would utilize seven (7) of the ROGO exemptions.  
19

20 As a note, in the application, the applicant asserts that the remaining 44 ROGO  
21 exemptions would be transferred off-site in the future. As required in the Land  
22 Development Code, a minor conditional use permit, applied for under a separate  
23 application, shall be required to establish the site as an eligible sender site.  
24

25 2. **Non-Residential Rate of Growth Ordinance (NROGO) (§138-47 – §138-56):**  
26 ***Compliance to be determined.***  
27

28 The application states that the proposal involves the construction of a 14,129 ft<sup>2</sup> non-  
29 residential building. However, the site plan indicates that the building would consist  
30 of 14,166 ft<sup>2</sup> of floor area. In addition, on the site plan, it is not indicated whether or  
31 not there shall be a covered canopy for the drive-through. If it is covered, the area of  
32 the canopy shall count towards the total amount of non-residential floor area for  
33 NROGO purposes.  
34

35 The applicant asserts that the site has the rights to 14,400 ft<sup>2</sup> of vested high intensity  
36 commercial retail floor area. This assertion is based on BOCC Resolution 070-1997.  
37 The BOCC adopted the resolution as evidence of its approval of the Orders of the  
38 Vested Rights Hearing Officers, promulgated pursuant to a Vested Rights Hearing  
39 held on November 21, 1996. However, the resolution itself provides very little detail.  
40 A settlement agreement or other written documentation from the hearing shall be  
41 required prior to any determination relating to the continued exemption of any floor  
42 area from the NROGO.  
43

44 3. Purpose of the MU District (§130-38): *In compliance.*  
45

The purpose is to establish or conserve areas of mixed uses, including commercial fishing, resorts, residential, institutional and commercial uses, and preserve these as areas representative of the character, economy and cultural history of the Florida Keys.

4. **Permitted Uses (§130-88):** *In compliance following the receipt of required major conditional use permit.*

The proposed drug store is a commercial retail use. According to the application and the traffic study, there would be 14,129 ft<sup>2</sup> of floor area within the building.

A traffic study by Jacobs Engineering Group indicates that the drug store would generate 1,246 daily trips. According to that finding, there would be 88 daily trips per 1,000 ft<sup>2</sup> of non-residential floor area. Commercial retail uses that generate between 50 and 100 average daily trips per 1,000 ft<sup>2</sup> of floor area are medium-intensity.

In the MU District, medium-intensity commercial retail uses of greater than 10,000 ft<sup>2</sup> of floor area may be permitted with major conditional use permit approval, provided that there is access to US 1 by way of a) an existing curb cut; b) a signalized intersection; or c) a curb cut that is separated from any other curb cut on the same side of US 1 by at least 400 feet. Attached residential dwelling units may also be permitted with major conditional use permit approval, provided that a) the structures are designed and located so that they are visually compatible with established residential development within 250 feet of the parcel proposed for development and b) the parcel proposed for development is separated from any established residential use by a class-C bufferyard.

5. **Residential Density and Maximum Floor Area Ratio (§130-157, §130-162 & §130-164):** *In compliance.*

The staff report filed for the approval under the expired Resolution P15-04 stated that the maximum residential development potential of the site if combined with 14,129 ft<sup>2</sup> of commercial floor area is 10 units. For that approval, the County utilized maximum net density as opposed to allocated density, presumably due to the fact that 51 dwelling units were lawfully-established on the site and that results in this project being in part a redevelopment. Allowing the utilization of maximum net density again, the following land use intensity calculations would apply.

| Land Use                             | Floor Area Ratio / Density | Size of Site                                  | Maximum Allowed        | Proposed Amount        | Potential Used |
|--------------------------------------|----------------------------|---|------------------------|------------------------|----------------|
| Commercial Retail (medium-intensity) | 0.25 FAR                   | 103,656 ft <sup>2</sup> (2.38 acres)          | 25,914 ft <sup>2</sup> | 14,129 ft <sup>2</sup> | 54.5 %         |
| Dwelling Units (market-rate)         | 12 units / buildable acre  | 103,656 ft <sup>2</sup> (1.9 buildable acres) | 22.8 units             | 7 units                | 30.7 %         |
| Total                                |                            |   |                        |                        | 85.2 %         |



**Affordable and Employee Housing; Administration (§130-161): *Not in compliance.***

Although this is a redevelopment, the application does not indicate that any of the 7 proposed dwelling units would be deed-restricted as affordable housing. Staff finds that this redevelopment would be subject to the inclusionary housing requirements.

Resolution P04-03 was approved in 2003 and allowed the redevelopment of 7 of the 51 lawfully-established dwelling units, Resolution P15-04 was approved in 2004 and allowed the redevelopment of 10 of the 51 lawfully-established dwelling units, and Resolution P32-05 was approved in 2005 and allowed the redevelopment of 46 of the 51 lawfully-established dwelling units. A specified amount of deed-restricted affordable housing was not required by the County as part of any of these approvals. However, all of these applications pre-dated the inclusionary housing ordinance.

Due to the time limitations of conditional use permits, Resolutions P04-03, P15-04 and P32-05 are expired and thereby are null and void with no further action required by the County. In MCC §130-161, there is no language vesting past voided approvals that were provided prior to the effective date of the ordinance and expired afterwards.

The purpose of the inclusionary housing regulations, consistent with Goal 601 of the Comprehensive Plan, is to ensure that the need for affordable housing is not exacerbated by new residential development and redevelopment of existing affordable housing stock. The intent is to protect the existing affordable housing stock, to permit owners of mobile homes and mobile home spaces to continue established mobile home uses consistent with current building and safety standards and regulations and to ensure that, as residential development, redevelopment and mobile home conversions occur, plan policies regarding affordable housing are implemented.

Pursuant to MCC §130-161(b)(2)b., the removal and replacement with other types of dwelling units of 10 or more mobile homes that are located on a parcel or contiguous parcels and/or the conversion of mobile home spaces located on a parcel or contiguous parcels into a use other than mobile homes shall be required to include in the development or redevelopment a number of affordable housing units equal to at least 30 percent of the number of existing units being removed and replaced or converted from mobile home use or, in the event the new use is nonresidential, to develop affordable housing units at least equal in number to 30 percent of the number of mobile homes or mobile home spaces being converted to other than mobile home use.

There were 51 mobile homes in the Pearl Mobile Home Park determined to be lawfully-established and exempt from the ROGO. Therefore, 30 percent or 15 of the 51 exemptions are required to be rebuilt as deed-restricted affordable housing. 30 percent of the 7 proposed dwelling units would be 2 dwelling units.



Applying the inclusionary housing regulations of MCC §130-161 to the redevelopment, the following land use intensity calculations would apply:

| Land Use                             | Floor Area Ratio / Density | Size of Site                                  | Maximum Allowed        | Proposed Amount          | Potential Used |
|--------------------------------------|----------------------------|---|------------------------|--------------------------|----------------|
| Commercial Retail (medium-intensity) | 0.25 FAR                   | 103,656 ft <sup>2</sup> (2.38 acres)          | 25,914 ft <sup>2</sup> | 14,129 ft <sup>2</sup> * | 54.5 %         |
| Dwelling Units (market-rate)         | 12 units / buildable acre  | 103,656 ft <sup>2</sup> (1.9 buildable acres) | 22.8 units             | 5 units                  | 21.9 %         |
| Total                                |                            |   |                        |                          | 76.4 %         |
| Dwelling Units (affordable)          | 18 units / buildable acre  | 103,656 ft <sup>2</sup> (1.9 buildable acres) | 34.2 units             | 2 units                  | 5.8 %          |
| Total                                |                            |   |                        |                          | 5.8 %          |

Affordable housing on parcels classified as MU may be developed at an intensity up to a maximum net residential density of 18 dwelling units per buildable acre. Furthermore, when calculating density, any affordable housing on a parcel and the floor area thereof shall be excluded from the calculation of the total gross non-residential floor area development that may be lawfully-established on the parcel.

6. Required Open Space (§118-9, §118-12, §130-157, §130-162 & §130-164): *In compliance.*

There is a required open space ratio of 0.20. Therefore, at least 20,732 ft<sup>2</sup> of the 103,656 ft<sup>2</sup> of the total land area must remain open space. The site plan indicates that there would be 73,089 ft<sup>2</sup> of impervious area.

7. Minimum Yards (§118-12 & §130-186): *Not in compliance.*

The required non-shoreline setbacks in the MU District where there are attached residential and non-residential components are as follows: Front yard – 25 feet; Rear yard – 20 feet; and Side yard – 10/15 feet (where 10 feet is required for one side and 15 feet is the minimum combined total of both sides).

The property is a six-sided lot. The site has a front yard requirement of 25 feet along the right-of-way of US 1 (the northern property line), a side yard setback of 10 or 5 feet along the eastern property line, a front yard setback of 25 feet along the right-of-way of MacDonald Avenue (part of the southern property line), and a side yard requirement of 10 or 5 feet along the western property lines.

As shown on the site plan, the proposed development would be in compliance with the setback requirements.

As a note, the applicant chose to have a 5-foot side yard setback along the eastern property line and a 10-foot side yard setback along the western property lines. There

1 is a commercial development to the west, Burger King, and a residential development  
2 to the east, Coral Hammock. Staff needs clarification as to the reasoning behind not  
3 providing greater separation from the established residential use versus the  
4 commercial use. Furthermore, a 5-foot setback along the eastern property line, as  
5 opposed to a 10-foot setback, effectively reduces the “backyards” of the proposed  
6 residential units.  
7

8 **8. Maximum Height (§130-187): *Compliance to be determined.***  
9

10 From the “crown of road”, the proposed drug store building is 35 feet, 0 inches.  
11 From its base, the proposed drug store building is 38 feet, 10 inches. Grade is the  
12 highest natural elevation of the ground surface, prior to construction, next to the  
13 proposed walls of a structure, or the crown or curb of the nearest road, whichever is  
14 higher. Prior to any approval, staff will need documentation verifying that the crown  
15 the nearest road to the building is at least 3 feet, 10 inches.  
16

17 From their bases, the proposed residential buildings are 27 feet, 8 inches.  
18

19 **9. Surface Water Management Criteria (§114-3): *Full compliance to be determined by***  
20 ***the Public Works Division and/or SFWMD prior to issuance of a building permit.***  
21

22 The Monroe County Project Management Department reviewed the stormwater plan  
23 for the site and found that the plan is consistent with Monroe County Code but some  
24 modifications shall be required prior to the issuance of a building permit. The  
25 required modifications are provided in a memorandum dated May 15, 2009.  
26

27 **10. Wastewater Treatment Criteria (§114-5): *Compliance to be determined by Florida***  
28 ***Department of Health, Florida Department of Environmental Protection and/or Key***  
29 ***West Resort Utilities prior to the issuance of a building permit.***  
30

31 **11. Fencing (§114-20): *Full compliance to be determined upon submittal to Building***  
32 ***Department.***  
33

34 **12. Floodplain Management (§122-1 – §122-6): *Full compliance to be determined upon***  
35 ***submittal to Building Department.***  
36

37 The site is designated within an AE – EL 9 flood zone on the Federal Emergency  
38 Management Agency (FEMA)’s flood insurance rate maps. All new structures must  
39 be built to floodplain management standards that meet or exceed those for flood  
40 protection.  
41

42 **13. Energy Conservation Standards (§114-45): *In compliance.***  
43

44 The development includes the provision of a bicycle rack, installation of native plants  
45 in required landscaping, which will reduce the requirements for water and

1 maintenance; the installation of several shade trees, which will provide shade for  
2 parking areas; and the provision of structural shading.

3  
4 14. Potable Water Conservation Standards (§114-46): *Compliance to be determined*  
5 *upon submittal to Building Department.*

6  
7 15. Environmental Design Criteria and Mitigation Standards (§118-6, §118-7 & §118-8):  
8 *Compliance to be determined by Biologist upon submittal to Building Department.*

9  
10 16. Required Parking (§9.5-114-67): *In compliance.*

11  
12 The development would be subject to the following off-street parking requirements:

13

| Specific Use                 | Multiplier           | Proposed   | Required Spaces |
|------------------------------|----------------------|------------|-----------------|
| Commercial Retail            | 3 spaces / 1,000 ft² | 14,129 ft² | 42.3 (42)       |
| Dwelling Unit (multi-family) | 1.5 spaces / unit    | 7 units    | 10.5 (11)       |
| Total                        |                      |            | 53 spaces       |

14  
15 Using the shared-parking calculation, the development would be subject to the  
16 following reduced off-street parking requirements:

17

| Specific use                     | Night     | Weekday |          | Weekend    |          |
|----------------------------------|-----------|---------|----------|------------|----------|
|                                  | 12AM- 6AM | 9AM-4PM | 6PM-12AM | 9AM-4PM    | 6PM-12AM |
| Residential<br>(11 spaces)       | 11.0      | 6.6     | 9.9      | 8.8        | 9.9      |
| Commercial Retail<br>(42 spaces) | 2.1       | 25.2    | 37.8     | 42.0       | 29.4     |
| Total                            | 13.1      | 31.8    | 47.7     | 50.8 or 51 | 39.3     |

18  
19 According to the proposed site plan, 70 off-street parking spaces would be provided.  
20 This would be in compliance with the 51 required. Of the 70 off-street parking  
21 spaces, 55 are identified as commercial and 15 are identified as residential.

22  
23 *Bicycle/Scooter Parking:* A bicycle rack is shown on the site plan.

24  
25 17. Required Loading and Unloading Spaces (§114-69): *In compliance.*

26  
27 One (1) loading/unloading space of 11 ft by 55 ft is required. A loading/unloading  
28 space is shown on the site plan.

29  
30 18. Required Landscaping (§114-99 – §114-105): *In compliance.*

31  
32 Since the parking area is to contain six or more spaces and is within a MU District, a  
33 class “C” landscaping standard is required.

19. **Required Buffer-yards (§114-124 – §114-130): *Not in compliance.***

No structure or land which abuts US 1 shall be developed, used or occupied unless a scenic corridor or bufferyard is provided. In the MU District, the required major street bufferyard is a class “B” bufferyard. The minimum class “B” bufferyard width is 5 feet. Widths of 10, 15 and 20 are also optional with different planting requirements. The landscape plan shows a 20-foot bufferyard along US 1.

Pursuant to MCC §130-88, attached residential dwelling units may be permitted with major conditional use permit approval, only provided that the parcel proposed for development is separated from any established residential use by a class “C” bufferyard. There is an established residential development on the contiguous parcel to the east. The site plan shows a 5-foot setback/bufferyard along the eastern property line. There is a 10 foot minimum width for a class “C” bufferyard. The applicant asserts that each side shall be responsible for half of the required buffer. However this clause applies to land use district bufferyards, not bufferyards required as part of the permitted use regulations. Land use district bufferyards are considered the responsibility of both property owners, while the requirements of MCC §130-88 are intended to apply to the property owner seeking approval of a specific a type of development. For attached residential, a 10-foot bufferyard must exist. Therefore, the applicant shall be responsible for the entire minimum of 10 feet.

20. **Outdoor Lighting (§114-159 – §114-163): *Full compliance to be determined upon submittal to Building Department.***

21. **Signs (§142-1 – §142-7): *Full compliance to be determined upon submittal to Building Department.***

22. **Access Standards (§114-195 – §114-201): *Not in compliance.***

There are three (3) proposed access drives to the site, one from US 1, one from MacDonald Avenue and one from the commercial property to the west, currently occupied by Burger King. A letter of coordination from FDOT was submitted, dated March 31, 2009. FDOT did not object to the access drive to US 1; however stated that access and drainage permits may be required. Public Works Division has not provided any approval of the access drive to MacDonald Avenue.

Site triangles are shown on the site plan; however vehicle maneuverability is not clearly indicated.

A traffic study by Jacobs Engineering Group indicates that a 14,129 ft<sup>2</sup> pharmacy with a drive-through and 7 residential dwelling units would generate 1,286 daily trips. However, the county’s traffic consultant, Raj Shanmugam of URS Corporation, determined that these findings were based on out-dated information from a traffic study completed for the past approval in 2004 via Resolution P15-04. The traffic consultant has requested that a revised traffic study, based on current information, be



submitted. Furthermore, a comparison to the figures approved in 2004 is not necessary as that approval expired and is null and void.

23. Chapter 533, Florida Statutes: *Full compliance to be determined upon submittal to Building Department.*

According to the site plan, 4 of the 70 off-street parking spaces provided would be handicap-accessible only. This is compliant with the 2004 Florida Accessibility Code for Building Construction, which states that if 76 to 100 parking spaces are provided, 4 spaces are required to be limited to handicap-accessible parking.

The proposed handicap parking spaces are of correct dimensions, located in proximity to the building entrances and would have access aisles. Compliance of signage requirements shall be determined upon submittal to the Building Department.

Other Issues:

1. On several occasions, the application refers to the "existing approval." In addition, the application was filed as an amendment to a major conditional use permit.

The past approval of Resolution P04-03 in 2003, which was later amended with the approval of Resolution P15-04 in 2004, was for a very similar development consisting of a drug store and 10 residential dwelling units. However, due to the time limitations of conditional use permits, Resolutions P04-03 and P15-04 expired and thereby are null and void with no further action required by the County. Furthermore, the site plans approved in 2003 and 2004 were abandoned with the approval of Resolution P32-05 in 2005 which was for a significantly different project of 46 residential dwelling units.

Staff found it would be misleading and inappropriate to label the proposal an amendment to a major conditional use permit and shall request that the application be advertised as a request for a major conditional use permit for the planning commission public hearing.

2. No community impact statement was submitted with the application as required by the Land Development Code.

In addition, several of the letters of coordination submitted with the application were dated from 2002-2004 and were drafted for the previously submitted application memorialized in Resolution P15-04. These letters must be updated and reference the proposed development.

3. The written application and landscape plan state there would be 14,129 ft<sup>2</sup> of commercial retail floor area while the site plan indicates that there would be 14,166 ft<sup>2</sup> of commercial retail floor area within the proposed drug store building. Clarification is required.

- 1  
2 4. If it is found that there is no vested rights to 14,400 ft<sup>2</sup> of NROGO floor area  
3 associated the property, the development would require an allocation of non-  
4 residential floor area through the NROGO permit allocation system. However, it is  
5 important to note that pursuant to MCC §138-51(c), a structure shall not receive an  
6 allocation that expands the structure to more than 10,000 ft<sup>2</sup> of nonresidential floor  
7 area, except that nonresidential floor area of structures in the Urban Commercial  
8 (UC) district.  
9  
10 5. Resolution P04-03 required a metal roof for the drug store to keep community  
11 character. Staff shall again request that the commercial structure have metal roof. In  
12 addition, staff requests that the applicant utilize architectural details that provide  
13 visual interest and break up the mass of the structure.  
14  
15 Attached residential dwelling units may be permitted with major conditional use  
16 permit approval provided that the structures are designed and located so that they are  
17 visually compatible with established residential development within 250 feet of the  
18 parcel proposed for development. Resolution P04-03 required that color schemes  
19 match that of the neighboring Coral Hammock development. Staff again requests that  
20 the residential color scheme, as well as any fencing, be consistent with the existing  
21 Coral Hammock development.  
22  
23 6. To reduce traffic on US 1 and MacDonald Avenue, Resolution P04-03 requested the  
24 feasibility of connection to the Burger King property. This connection is shown on  
25 the site plan.  
26  
27 7. The applicant is interested in transferring the remaining 44 of the 51 lawfully  
28 established ROGO residential dwelling units off-site. This application shall not  
29 establish the site as a sender site. To do so, the applicant shall apply for a separate  
30 approval in accordance with the Land Development Code.  
31

32 **V RECOMMENDED ACTION:**  
33

34 Staff recommends **APPROVAL** to the Planning Commission if all the following conditions  
35 are met:  
36

- 37 A. Prior to the scheduling of a public hearing by the Planning Commission, the applicant  
38 shall reinitiate coordination with the following agencies and departments: South  
39 Florida Water Management District, Florida Department of Environmental  
40 Protection, Florida Keys Aqueduct Authority, Keys Energy Services, Monroe County  
41 Health Department and Monroe County Solid Waste Management. Prior to the  
42 issuance of a building permit, new letters of coordination shall be provided.  
43  
44 B. Prior to the scheduling of a public hearing by the Planning Commission, the applicant  
45 shall submit a community impact statement prepared in accordance with the Monroe  
46 County Code.

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- C. Prior to the scheduling of a public hearing by the Planning Commission, the applicant shall submit clarification as to which figure, 14,129 ft<sup>2</sup> or 14,166 ft<sup>2</sup>, concerning the floor area of the proposed non-residential building is correct. If the site plan is incorrect, it shall be revised to reflect the correct figure. In addition, the applicant shall indicate whether or not there will be canopy for the drive-through and if so, its area shall be provided.
  - D. Prior to the scheduling of a public hearing by the Planning Commission, the applicant shall submit a settlement agreement or other written documentation from the Vested Rights Hearing held on November 21, 1996.
  - E. Prior to the scheduling of a public hearing by the Planning Commission, the applicant shall revise the site plan to:
    - a. Provide a floor area total of the non-residential building that matches the landscape plan.
    - b. Indicate whether or not the drive-through canopy shall be covered.
    - c. Provide a 10-foot setback along the eastern property line to allow for a required 10-foot bufferyard.
    - d. Correctly label the setback along MacDonald Avenue from "REAR" to "FRONT".
    - e. Show vehicle maneuverability.
  - F. Prior to the scheduling of a public hearing by the Planning Commission, the applicant shall revise the landscape plan to:
    - a. Show a compliant class "C" major street bufferyard of at least 10-feet in width along the eastern property line.
    - b. Provide a floor area total of the non-residential building that matches the site plan.
  - G. Prior to a public hearing by the Planning Commission, the applicant shall submit a revised traffic study that is based on current information. If necessary this study shall be updated to reflect the same square footage as shown on the site plan. The methodology and findings of the revised traffic study shall be approved by the county's traffic consultant.
  - H. Prior to a public hearing by the Planning Commission, the applicant shall submit an appropriate document, such as a boundary survey, verifying that the crown the nearest road to the building is at least 3 feet, 10 inches.
  - I. Prior to the issuance of a building permit, the applicant shall provide a stormwater plan and calculations in accordance with the request of the Monroe County Project Management Department.
  - J. Prior to the issuance of a building permit, the site plan and structures shall be found in compliance by the Monroe County Building Department, the Monroe County

1 Floodplain Administrator, the Monroe County Public Works Division and the  
2 Monroe County Office of the Fire Marshal.

3  
4 K. The two (2) required affordable housing units shall be deed restricted in accordance  
5 with the Monroe County Code. Occupants of the units must meet all requirements for  
6 occupancy of affordable housing.  
7

8 L. During the County's review of the building permit application(s), the Director of  
9 Planning & Environmental Resources shall review the application(s) to ensure that  
10 the structures are visually compatible with the established residential development of  
11 Coral Hammock, which is within 250 feet of the parcel proposed for development.  
12 Similar and consistent design, materials and colors shall be utilized for all new  
13 structures.  
14

15 M. A metal roof and architectural details that provide visual interest and break up the  
16 structural mass shall be required components of the non-residential building.  
17

18 N. There shall be a sign stating that the 15 off-street parking spaces for the residents and  
19 guests of the seven (7) dwelling units are residential parking only.  
20

21 **VI PLANS REVIEWED:**  
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- 23 a. Site Plan (S1) by Thomas E. Pope, P.A. Architect, dated March 27, 2009  
24 b. Conceptual Landscape Plan (LD-1) by the Craig Company dated August 27, 2002 and  
25 last revised April 10, 2009  
26 c. Drainage Plan (C-1) by Perez Engineering & Development, Inc., dated April 3, 2009  
27 d. Floor Plan & Mezzanine Plan (A1) (*Drug Store*) by Thomas E. Pope, P.A. Architect,  
28 dated March 27, 2009  
29 e. Typical Floor Plans (A2) (*Dwelling Units*) by Thomas E. Pope, P.A. Architect, dated  
30 March 27, 2009  
31 f. Elevations (A3 & A4) (*Drug Store*) by Thomas E. Pope, P.A. Architect, dated March 27,  
32 2009  
33 g. Elevations (A5) (*Dwelling Units*) by Thomas E. Pope, P.A. Architect, dated March 27,  
34 2009  
35 h. Boundary Survey by Frederick H. Hildebrandt., dated August 2, 2002



Attachment: Photos of Site



**View of Site (from western property line looking east towards Coral Hammock)**



**View of Site (from southern property line looking north towards US 1)**